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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,852	10/22/2001	Daniel V. East	36488-167637	7743
26694	7590	10/07/2004	EXAMINER	
VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998				SHERR, CRISTINA O
ART UNIT		PAPER NUMBER		
3621				

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/982,852	EAST ET AL.	
	Examiner	Art Unit	
	Cristina Owen Sherr	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 29 June 2004.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This communication is in response to applicant's amendment filed June 29, 2004. Claims 1-24 are pending in this case..

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 16 and 24 filed June 29, 2004 have been fully considered but they are not persuasive.
3. Applicant argues that the references do not teach or suggest permitting a recognized user to execute a software application in the event of inaccessibility of the license management system. Attention is directed to Christiano (US 5,671,412A) at (col 3 ln 10-25).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christiano (US 5,671,412A) in view of Misra et al (US 6,189,146B1), further in view of Baena-Arnaiz et al (US 6,006,190A).

6. Regarding claim 1 -  
Christiano discloses a method for providing access to application software in the event of inaccessibility of a license management system, comprising the steps of determining

If a user has a valid software license to run a software application including sending a query to the license management system; and permitting a recognized user to execute said software application in the event of inaccessibility of the license management system (col 3 ln 12 - col 5 ln 18).

7. Regarding claim 2 -

Misra discloses the method according to claim 1, wherein said permitting step comprises: recognizing said user as a previously valid user, before permitting said recognized user to execute said software application (col 3 ln 1-7).

8. Regarding claim 3 -

Misra discloses the method according to claim 2, wherein said recognizing step comprises: determining if access to said software application by said user has previously been validly authorized via said license management system (col 3 ln 1-7).

9. Regarding claim 4 -

Baena discloses the method according to claim 2, further comprising: executing said software application in a punishment mode comprising: imposing a punishment (col 6 ln 13-48).

10. Regarding claim 5 -

Baena discloses the method according to claim 2, further comprising: executing said software application in a punishment mode comprises: imposing a punishment comprising a time delay (col 8 ln 15-31).

11. Regarding claim 6 -

Baena discloses the method according to claim 5, wherein said punishment mode comprises: imposing a punishment comprising a time delay is imposed between when said user attempts to run said software application and when said user is permitted to run said software application (col 6 ln 13-48).

12. Regarding claim 7 -

Baena discloses the method according to claim 4, wherein said punishment comprises: increasing said punishment upon occurrence of a first criterion (col 6 ln 36-49).

13. Regarding claim 8 -

Baena discloses the method according to claim 4, wherein said punishment comprises: decreasing said punishment upon occurrence of a second criterion (col 6 ln 36-49).

14. Regarding claim 9 -

Misra discloses the method according to claim 1, further comprising: storing recognition of previously authorized access on a local workstation used by said recognized user (col 3 ln 1-7).

15. Regarding claim 10 -

Misra discloses the method according to claim 9, wherein said recognition is stored as an encrypted code key in a register of said local workstation (col 3 ln 15-21).

16. Regarding claim 11 -

Baena discloses the method according to claim 4, wherein said punishment mode comprises: increasing said punishment if said recognized user subsequently attempts to execute said application in failsafe mode in the event of inaccessibility of the license management system (col 6 ln 37-49).

17. Regarding claim 12 -

Baena discloses the method according to claim 4, wherein said punishment mode comprises: decreasing punishment if said recognized user subsequently attempts to execute said application including validated authorization by the license management system (col 6 ln 37-49).

18. Regarding claim 13 -

Baena discloses the method according to claim 4, wherein said punishment comprises: imposing at least one of a time delay, a time limit, a software impediment, and a disablement of functionality of said software application program (col 6 ln 22-35).

19. Regarding claim 14 -

Misra discloses the method according to claim 1, wherein said license management system is a license server (col 3 ln 1-7).

20. Regarding claim 15 -

Misra discloses the method according to claim 1, wherein said permitting step comprises determining whether any previously valid authorizations have been established with said license management system by checking a value set when said software application is initially validly installed (col 3 ln 1-7).

21. It would be obvious to one of ordinary skill in the art to combine the teachings of Christiano, Misra and Baena in order to obtain greater security in the licensing of software without completely discouraging its use.

22. Claims 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christiano (US 5,671,412A) in view of Misra et al (US 6,189,146131), further in view of Baena-Arnaiz et al (US 6,006,190A).

23. Regarding claim 16 -

Christiano discloses a system for managing access to concurrent software licenses, comprising: a network; a license management system coupled to said network operative to authorize a user of a software application; and a client workstation coupled to said network, wherein said client workstation comprises a validation device operative to permit a recognized user to execute said software application in the event of inaccessibility of a license management system (col 3 ln 12 - col 5 ln 18).

24. Regarding claim 17 -

Misra discloses the system according to claim 16, wherein said validation device is operative to recognize whether said user previously obtained a valid authorization to execute said software application by said license management system before permitting execution of said software application (col 3 ln 12 - col 5 ln 18).

25. Regarding claim 18 -

Baena discloses the system according to claim 16, wherein said validation device permits said user to run said software application with a punishment (col 8 ln 15-31).

26. Regarding claim 19 -

Baena discloses the system according to claim 18, wherein said validation device permits said user to execute said software application with said punishment if a previously valid authorization of said user is recognized (col 6 ln 36-49).

27. Regarding claim 20 -

Misra discloses the system according to claim 19, wherein said license management system is a license server (col 3 ln 1-7).

28. Regarding claim 21 -

Baena discloses the system according to claim 19, wherein said punishment comprises at least one of a time delay, a time limit, a software impediment, and a disablement of functionality of said software (col 6 ln 36-49).

29. Regarding claim 22 -

Baena discloses the system according to claim 21, wherein said punishment increases if said user previously attempted access with said inaccessible license management system (col 6 ln 36-49).

30. Regarding claim 23 -

Baena discloses the system according to claim 22, wherein said punishment decreases if said user subsequently is validly authorized using said license management system (col 6 ln 13-48).

31. It would be obvious to one of ordinary skill in the art to combine the teachings of Christiano, Misra and Baena in order to obtain greater security in the licensing of software without completely discouraging its use.

32. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christiano (US 5,671,412A) in view of Misra et al (US 6,189,14681).

33. Christiano discloses a computer program product embodied on a computer readable medium, said computer program product comprising program logic comprising

program code means for enabling the computer to permit recognized users to execute said software application in the event of inaccessibility of said license management system (col 3 ln 12 - col 5 ln 18).

34. Misra discloses program code means for enabling a computer to determine whether a user has a valid software license to execute a software application including program code means for enabling the computer to send a query to a license management system (col 3 ln 1-7).

35. It would be obvious to one of ordinary skill in the art to combine the teachings of Christiano and Misra in order to obtain greater security in the licensing of software without completely discouraging its use.

36. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Conclusion***

37. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

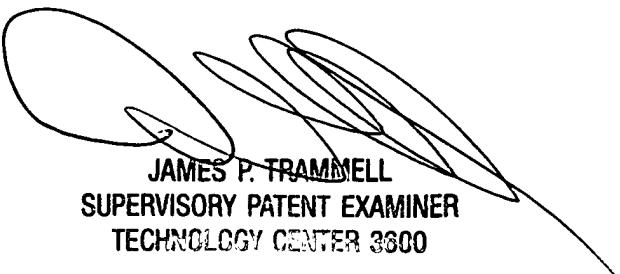
38. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 703-305-0625. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

40. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

41. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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